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WASHINGTON, D. C. 20015-2003FEDERAL COMMUNICATIONS COMMISSION  
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June 10, 1994

\*ADMITTED IN VA ONLY

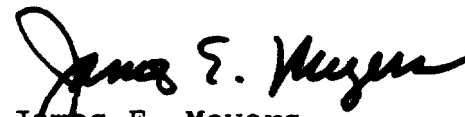
**VIA HAND-DELIVERY**William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554Re: Encore Media Corporation's Petition for  
Reconsideration of the Managing Director's  
Action in Mimeo No. 42953 (MM Docket No. 92-266  
[CSR - 4236 - R])

Dear Mr. Caton:

Transmitted herewith on behalf of Encore Media Corporation  
("Encore") are an original and four copies of Encore's petition for  
reconsideration of the Managing Director's action issued in Mimeo  
No. 42953, released May 11, 1994.

Please contact the undersigned if you have any questions.

Very truly yours,

James E. Meyers  
Counsel for  
Encore Media Corporationcc (w/enc.): Chairman Reed Hundt  
Commissioner James H. Quello  
Commissioner Andrew C. Barrett  
Commissioner Rachelle Chong  
Commissioner Susan Ness  
William H. Johnson, III  
Pat Donovan, Esq.  
Andrew S. Fishel  
(Per attached service list)

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Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Request for Declaratory Ruling  
Regarding Multiplexing of Premium  
Services Under the Commission's  
Cable Television Rules

)  
) Mimeo No. 42953  
) (MM Docket No.  
) 92-266 [CSR-4236-R])  
)  
)

To: To The Managing Director

**PETITION FOR RECONSIDERATION**

Encore Media Corporation ("Encore"), through undersigned counsel, hereby petitions the Managing Director, acting by delegated authority, to reconsider its action of the May 11, 1994 (Public Notice, Mimeo No. 42953, released May 11, 1994), dismissing as moot the "Motion to Strike and Impose Sanctions" ("Motion to Strike"), filed by Encore on April 6, 1994 against the "Request for Declaratory Ruling..." filed by Showtime Networks, Inc. ("Showtime") on March 17, 1994 ("Request").

Encore seeks reconsideration of that portion of the Managing Director's action that dismissed Encore's Motion to Strike as moot and failed to strike the Showtime Request.

The Managing Director premised the action on the Commission's decision in the Second Order on Reconsideration, Fourth Report and Order, and Fifth Notice of Proposed Rulemaking, FCC 94-38, released March 30, 1994, at 96 n.261, wherein the Commission stated that:

"We note that the parties have raised a number of questions regarding how we define multiplexed services. We will decide that issue in a separate proceeding."

FCC 94-38, at 96 n.261 (emphasis added).

The only parties that raised the multiplex issue were Encore and Showtime; the only party to raise the issue permissibly was Encore. Showtime raised the issue during the "sunshine period" and, per force, influenced the Commission's decision to defer the proceeding.

The Showtime Request should be stricken pursuant to Encore's Motion to Strike and the Commission should institute a new and completely separate proceeding with the full benefits of a pleading cycle. Showtime should not be rewarded for its impermissible contacts by allowing its pleading to be the vehicle by which the Commission will determine the multiplex issue. Otherwise, any decision on the merits emanating from the impermissible pleading raises due process and fairness questions.

Encore intends to shortly file its own Request for Declaratory Ruling, seeking confirmation of its thematic multiplex plan. That Request should create the proceeding within which the Commission should determine the multiplex issue. For the sake of expedition and bringing certainty to the cable industry on the multiplex issue, Encore intends to move the Commission to consolidate Encore's forthcoming Request into the CSR - 4236 - R docket. Showtime has stated that it has no objection to such a consolidation. "Reply of Showtime Networks, Inc.," CSR - 4236 - R (filed May 20, 1994) at 2 n.3. Upon the

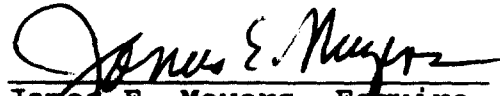
consolidation of Encore's forthcoming Request into the CSR - 4236 - R proceeding and affording Encore a full pleading cycle on its forthcoming Request, Encore will consider this instant petition moot.

Based on the above, Encore's petition should be granted and Showtime's Request for Declaratory Ruling should be stricken and sanctions imposed.

Respectfully Submitted,

ENCORE MEDIA CORPORATION

By:

  
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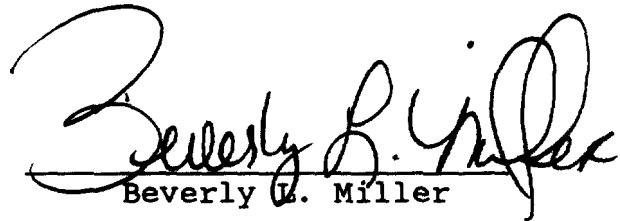
Its Counsel

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**CERTIFICATE OF SERVICE**

I, Beverly L. Miller, a secretary in the law offices of Baraff, Koerner, Olender & Hochberg, P. C., do hereby certify that copies of the foregoing **PETITION FOR RECONSIDERATION** were served this 10th day of June, 1994, via first class mail, postage prepaid upon the following:

Lawrence W. Secrest, III  
Philip V. Permut  
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Beverly L. Miller